

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Pacheco Analyst: Roger Lackey Bill Number: AB 238

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 07-09-2001

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Net Operating Loss Sustained By Farmers From Pest Infestation/Allows Deduction Carryover Until Loss is Used

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended \_\_\_\_\_.

X FURTHER AMENDMENTS NECESSARY.

X DEPARTMENT POSITION CHANGED TO Support.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED  
X April 5, 2001, STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would allow special treatment for farm losses incurred as a result of Pierce's disease.

## SUMMARY OF AMENDMENTS

The July 9, 2001, amendments replaced the term "pest infestation" with the term "Pierce's disease and its vectors." The amendment also limited the special NOL carryover period to the nine taxable years following the loss.

As a result of the amendments, the policy consideration discussed in the department's analysis of the bill as amended April 5, 2001, has been resolved. However, new implementation considerations have been identified and are included below, along with a new revenue estimate. The remainder of the department's analysis of the bill as amended April 5, 2001, still applies.

## POSITION

Support.

On June 27, 2001, the Franchise Tax Board voted 2-0 to take a support position on this bill with Annette Porini, on behalf of Member B. Timothy Gage, abstaining.

Board Position:

<u>X</u> S	<u>      </u> NA	<u>      </u> NP
<u>      </u> SA	<u>      </u> O	<u>      </u> NAR
<u>      </u> N	<u>      </u> OUA	<u>      </u> PENDING

Legislative Director

Date

Brian Putler

07/27/01

## IMPLEMENTATION CONSIDERATIONS

The special NOL treatment would apply to losses incurred as a result of Pierce's disease and its vectors. It is unclear what the term "vector" would include. The author's staff indicated that the intent is for "vector" to mean the insect life that carries Pierce's disease. The bill should be amended to clarify the author's intent.

This bill would allow a taxpayer with a farming business in an area affected by Pierce's disease and its vectors to claim a special NOL. The bill does not specifically require that Pierce's disease and its vectors affect the taxpayer's farming business as a prerequisite for a taxpayer being entitled to the special NOL treatment. As a result, a farming business not affected by Pierce's disease, but in the area in which other farming businesses are affected by Pierce's disease and its vectors, would be eligible for the special NOL. Amendments 1 thru 4 would revise the meaning of "qualified taxpayer" and would require that the taxpayer's farming business be directly affected by Pierce's disease and its vectors to be eligible for the special NOL treatment.

## **ECONOMIC IMPACT**

### Revenue Estimate

This bill is similar to AB 2170 (1999-2000 Session) and a similar revenue analysis applies. Based on information received from the State Department of Food and Agriculture and other sources, the value of crop losses in California due to Pierce's disease in 2000 was projected to be \$20 million. Staff's analysis indicated that the qualifying NOLs under this proposal is about half of this amount on average (i.e., \$10 million), resulting in an additional NOL carryover amount of \$5 million. It was further assumed that some taxpayers would not be able use these additional NOL carryovers in the future due to negative income. Applying a tax rate of 8%, the revenue impact of this bill would be minor— about \$300,000 in revenue losses per year, beginning in 2001/02.

## **LEGISLATIVE STAFF CONTACT**

Roger Lackey  
Franchise Tax Board  
845-3627

Brian Putler  
Franchise Tax Board  
845-6333

Analyst	Roger Lackey
Telephone #	845-3627
Attorney	Patrick Kusiak

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 238  
As Amended July 9, 2001

AMENDMENT 1

On page 8, line 39, after "business" insert:  
directly affected by Pierce's disease and its vectors

AMENDMENT 2

On page 9, line 12, strikeout "within the area"

AMENDMENT 3

On page 18, line 31, after "business" insert:  
directly affected by Pierce's disease and its vectors

AMENDMENT 4

On page 19, line 4, strikeout "within the area"